

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

VEILLAT et al

Atty. Ref. 4662-9; Conf. No.: 5278

Serial No. 10/530,435

Group: 1794

Filed: September 28, 2008

Examiner: Cole

For: PROCESS FOR MAKING A MONOFILAMENT-LIKE PRODUCT

\* \* \* \* \*

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR §1.132

Sir:

Pursuant to 37 CFR §1.132, the undersigned, Christian H.P. DIRKS, hereby declares and states that:

1. I am a named coinventor of the invention described and claimed in the above-identified US Patent Application Serial No. 10/530,435 ("the '435 application") and for all times relevant to the facts stated herein have been employed by DSM N.V. (DSM).
2. On information and belief, I understand that the US Patent Examiner has cited U.S. Patent No. 6,148,597 to Cook ("Cook '597") and WO 91/14029 ("WO '029") against the claims pending in the '435 application. In essence, I understand that the US Patent Examiner has asserted that it would have been obvious to a person of ordinary skill to substitute high molecular weight polyethylene staple fibers as taught by WO '029 rather than continuous filaments as taught by Cook '597. As such, the US

Patent Examiner has concluded that the claims pending in the '435 application are not patentable based on Cook '597 and WO '029.

3. I believe I am a person of at least ordinary skill in this art. That the monofilament-like fibers made from precursor staple fibers could achieve better abrasion resistance as compared to similar monofilament-like fibers made from precursor continuous fibers is in fact a surprising result.
4. Specifically, the improvement of the abrasion resistance effects of the monofilament-like fibers according to the claimed invention of the '435 application is surprising since during abrasion resisting testing, the borders of the fused precursor filaments are expected to be the point of origin for fiber breakage. Staple fibers have of course more "borders" between one another as compared to continuous fibers. Therefore, even a skilled person in this art would expect that the abrasion resistance of monofilament-like fibers made from precursor staple fibers would be worse than monofilament-like fibers made from precursor continuous fibers.
5. As a result, the ordinarily skilled person would not be motivated to substitute precursor staple fibers for precursor continuous fibers in a monofilament-like fiber since to do so would result in an expected decrease -- not increase -- in abrasion resistance.
6. The data in the originally filed specification demonstrate that improved abrasion resistance does in fact ensue for the monofilament-like fibers of the invention claimed in the '435 application as compared to Cook '597.

7. In Cook '597, the constructions of the braids are shown in Table I as being made from 4 gel spun UHMwPE continuous filaments having, for example, a density of 200 denier (ex. 2). A 200 denier roughly equals 222 dTex.
8. The construction of the comparative experiment A in the '435 application is indicated in Table 1 as "8 x 224/ 7.5" which means that the precursor is a braid made from 8 UHMwPE continuous yarns having a titre of 224 dTex braided with the tightness of 7.6 picks per centimeter.
9. In ex.2 of Cook '597, therefore, a braid is made from essentially the same yarn as the comparative experiment A in the '435 application with the only difference being that the number of yarns present is 4 in Cook '597 and 8 in the comparative experiment in the '435 application. Since the number of the precursor filaments in Cook '597 is smaller as compared to the comparative experiment in the '435 application (i.e., 4 viz. 8), the abrasion resistance of the product of Cook '597 would be expected to be less than the product of comparative experiment in the '435 application.
10. Therefore, using the data of the comparative experiment in the '435 application and the similarity to the filaments in Cook '597, it can be concluded that the examples of the present invention would show a significantly higher abrasion resistance as compared to the examples of Cook '597.
11. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

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Code and that such willful false statements may jeopardize the validity of  
the application or any patent issuing thereon.

Respectfully Submitted,



Christian H.P. DIRKS

10-December 08

Date Signed